

FILE COPY

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	FINAL DECISION
	:	AND ORDER
TAJAMMUL BHATTI, M.D.,	:	LS9101153MED
RESPONDENT.	:	

The State of Wisconsin, Medical Examining Board, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Medical Examining Board.

The rights of a party aggrieved by this Decision to petition the Board for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this 20 day of March, 1991.

Michael P. Mehsner

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	PROPOSED DECISION
	:	
TAJAMMUL BHATTI, M.D.,	:	Case No. LS9101153MED
RESPONDENT.	:	

The parties to this proceeding for the purposes of Wis. Stats. sec. 227.53, are:

Tajammul Bhatti, M.D.
502 East Main Street
Marion, VA 24354

Medical Examining Board
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708

Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708

A hearing was held in the above-captioned matter on February 19, 1991. The complainant appeared by Attorney Pamela M. Stach, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708. The respondent, Dr. Tajammul Bhatti, did not appear nor did anyone appear upon his behalf.

Given the failure of Dr. Bhatti to appear at the hearing, complainant's attorney moved that a default judgement be entered. The motion was granted contingent upon complainant's submission of proof establishing the allegations contained within the Complaint.

Based upon the record in this case, the administrative law judge recommends that the Medical Examining Board adopt as its final decision in this matter the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. Tajammul Bhatti, M.D., respondent herein, 502 East Main Street, Marion, Virginia 24354, is a physician duly licensed and currently registered to practice medicine and surgery in the State of Wisconsin. Respondent's license bears number 18446 and was granted on July 12, 1973.

2. At all times relevant hereto, respondent was licensed to practice medicine and surgery in the State of South Dakota under license number 2183.

3. On March 29, 1989, the South Dakota State Board of Medical and Osteopathic Examiners (South Dakota Board) suspended the license of respondent for a period of four years, with the suspension being stayed during a four year period of probation. The South Dakota Board imposed terms and conditions upon respondent's license during the four year probationary period, including:

A. That respondent submit to and obtain an evaluation/assessment of his condition.

B. That respondent obtain treatment for his assessed condition.

C. That respondent not practice medicine by direct patient care for a period of one year or until his condition was successfully treated, whichever was longer.

D. That respondent not engage in the solo practice of medicine by direct patient care, nor see, treat or enter into a physician-patient relationship with female patients, for four years.

E. That respondent's violation of any of the imposed terms and conditions authorized the South Dakota Board to summarily cancel respondent's license.

4. Contrary to above-referenced order, respondent failed to submit to and obtain an evaluation/assessment of his condition. Accordingly, the South Dakota Board suspended respondent's license until such time as he complies with its order. The suspension currently remains in effect.

CONCLUSIONS OF LAW

1. The Medical Examining Board has jurisdiction in this proceeding pursuant to Wis. Stats. sec. 448.02.

2. Respondent, having had his license to practice medicine and surgery in the State of South Dakota limited and suspended by the South Dakota Board, has engaged in unprofessional conduct within the meaning of Wis. Stats. sec. 448.02(3), and Wis. Adm. Code sec. Med 10.02(2)(q).

ORDER

NOW, THEREFORE, IT IS ORDERED that the license of Tajammul Bhatti, M.D., to practice medicine and surgery in the State of Wisconsin shall be, and hereby is, revoked.

IT IS FURTHER ORDERED that the costs of this proceeding be assessed against the respondent, pursuant to Wis. Stats. sec. 440.20.

OPINION

The license of Dr. Bhatti to practice medicine and surgery in the State of South Dakota was suspended for a period of four years in March, 1989, pursuant to a stipulated agreement. However, the order of the South Dakota Board stayed the suspension, and among other things required that he obtain an assessment of his "condition", limited his license by requiring that he not provide direct medical care for patients for at least one year and that he not "see, treat or enter into a physician-patient relationship" with any female patients for four years. The documents submitted at the hearing indicate the South Dakota Board's order was related to a formal disciplinary complaint alleging that Dr. Bhatti had engaged in improper sexual contacts with a patient. See, Exhibit 2.

Testimony at the hearing in this proceeding established that Dr. Bhatti failed to obtain the assessment of his condition as required under the stipulated agreement. Accordingly, the South Dakota Board suspended his medical license in that state until such time as he did so. Dr. Bhatti remains under suspension in South Dakota at this time.

The record clearly shows that Dr. Bhatti's license to practice medicine and surgery in another state has been limited and suspended within the meaning of Med 10.02(2)(q), which constitutes grounds for a finding of unprofessional conduct and the imposition of disciplinary sanctions against his license in this state under Wis. Stats. sec. 448.02(3). Accordingly, the only remaining issue is the appropriate discipline, if any, to be taken against Dr. Bhatti's license to practice medicine and surgery in Wisconsin. In this regard, it is noted that the interrelated purposes for applying disciplinary measures are to protect the public, promote the rehabilitation of the licensee and deter other licensees from engaging in similar misconduct. State v. Aldrich, 71 Wis.2d 206, 209 (1976).

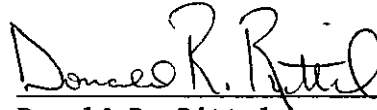
Given the disciplinary action taken in South Dakota, as well as the unanswered question as to whether or not Dr. Bhatti suffers from any psychological and/or physical condition(s) adversely affecting his ability to practice, it is my opinion that the protection of the public requires that respondent not be permitted to practice medicine and surgery in the State of Wisconsin at this time. Additionally, action must be taken which will assure the board of an opportunity to fully assess Dr. Bhatti's ability to practice medicine consistent with the health, safety and welfare of the public, and authorize it to impose appropriate terms and conditions upon his license based upon such an evaluation, if necessary, prior to any requested reinstatement of his right to practice in the future. In this regard, Wis. Stats. sec. 448.02(6), provides:

The (medical examining) board may restore any license... which has been...revoked under any of the provisions of this chapter, on such terms and conditions as it may deem appropriate.

In my opinion, only a revocation of the license of Dr. Bhatti serves to both remove him from practice and provide the board with the necessary flexibility in the future to evaluate respondent's fitness to provide medical services and impose any necessary limitations required in the public interest.

Dated: February 27, 1991.

Respectfully submitted,

A handwritten signature in cursive script, reading "Donald R. Rittel", is written over a horizontal line.

Donald R. Rittel
Administrative Law Judge

BDLS2-63

NOTICE OF APPEAL INFORMATION

(Notice of Rights for Rehearing or Judicial Review,
the times allowed for each and the identification
of the party to be named as respondent)

The following notice is served on you as part of the final decision:

1. Rehearing.

Any person aggrieved by this order may petition for a rehearing within 20 days of the service of this decision, as provided in section 227.49 of the Wisconsin Statutes, a copy of which is attached. The 20 day period commences the day after personal service or mailing of this decision. (The date of mailing of this decision is shown below.) The petition for rehearing should be filed with the State of Wisconsin Medical Examining Board.

A petition for rehearing is not a prerequisite for appeal directly to circuit court through a petition for judicial review.

2. Judicial Review.

Any person aggrieved by this decision has a right to petition for judicial review of this decision as provided in section 227.53 of the Wisconsin Statutes, a copy of which is attached. The petition should be filed in circuit court and served upon the State of Wisconsin Medical Examining Board.

within 30 days of service of this decision if there has been no petition for rehearing, or within 30 days of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30 day period commences the day after personal service or mailing of the decision or order, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing of this decision is shown below.) A petition for judicial review should be served upon, and name as the respondent, the following: the State of Wisconsin Medical Examining Board.

The date of mailing of this decision is March 22, 1991.

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227.49 Petitions for rehearing in contested cases. (1) A petition for rehearing shall not be a prerequisite for appeal or review. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition for rehearing which shall specify in detail the grounds for the relief sought and supporting authorities. An agency may order a rehearing on its own motion within 20 days after service of a final order. This subsection does not apply to s. 17.025 (3) (e). No agency is required to conduct more than one rehearing based on a petition for rehearing filed under this subsection in any contested case.

(2) The filing of a petition for rehearing shall not suspend or delay the effective date of the order, and the order shall take effect on the date fixed by the agency and shall continue in effect unless the petition is granted or until the order is superseded, modified, or set aside as provided by law.

(3) Rehearing will be granted only on the basis of:

(a) Some material error of law.

(b) Some material error of fact.

(c) The discovery of new evidence sufficiently strong to reverse or modify the order, and which could not have been previously discovered by due diligence.

(4) Copies of petitions for rehearing shall be served on all parties of record. Parties may file replies to the petition.

(5) The agency may order a rehearing or enter an order with reference to the petition without a hearing, and shall dispose of the petition within 30 days after it is filed. If the agency does not enter an order disposing of the petition within the 30-day period, the petition shall be deemed to have been denied as of the expiration of the 30-day period.

(6) Upon granting a rehearing, the agency shall set the matter for further proceedings as soon as practicable. Proceedings upon rehearing shall conform as nearly may be to the proceedings in an original hearing except as the agency may otherwise direct. If in the agency's judgment, after such rehearing it appears that the original decision, order or determination is in any respect unlawful or unreasonable, the agency may reverse, change, modify or suspend the same accordingly. Any decision, order or determination made after such rehearing reversing, changing, modifying or suspending the original determination shall have the same force and effect as an original decision, order or determination.

227.52 Judicial review; decisions reviewable. Administrative decisions which adversely affect the substantial interests of any person, whether by action or inaction, whether affirmative or negative in form, are subject to review as provided in this chapter, except for the decisions of the department of revenue other than decisions relating to alcohol beverage permits issued under ch. 125, decisions of the department of employee trust funds, the commissioner of banking, the commissioner of credit unions, the commissioner of savings and loan, the board of state canvassers and those decisions of the department of industry, labor and human relations which are subject to review, prior to any judicial review, by the labor and industry review commission, and except as otherwise provided by law.

227.53 Parties and proceedings for review. (1) Except as otherwise specifically provided by law, any person aggrieved by a decision specified in s. 227.52 shall be entitled to judicial review thereof as provided in this chapter.

(a) Proceedings for review shall be instituted by serving a petition therefor personally or by certified mail upon the agency or one of its officials, and filing the petition in the office of the clerk of the circuit court for the county where the judicial review proceedings are to be held. Unless a rehearing is requested under s. 227.49, petitions for review under this paragraph shall be served and filed within 30 days after the service of the decision of the agency upon all parties under s. 227.48. If a rehearing is requested under s. 227.49, any party desiring judicial review shall serve and file a petition for review within 30 days after service of the order finally

disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. The 30-day period for serving and filing a petition under this paragraph commences on the day after personal service or mailing of the decision by the agency. If the petitioner is a resident, the proceedings shall be held in the circuit court for the county where the petitioner resides, except that if the petitioner is an agency, the proceedings shall be in the circuit court for the county where the respondent resides and except as provided in ss. 77.59 (6) (b), 182.70 (6) and 182.71 (5) (g). The proceedings shall be in the circuit court for Dane county if the petitioner is a nonresident. If all parties stipulate and the court to which the parties desire to transfer the proceedings agrees, the proceedings may be held in the county designated by the parties. If 2 or more petitions for review of the same decision are filed in different counties, the circuit judge for the county in which a petition for review of the decision was first filed shall determine the venue for judicial review of the decision, and shall order transfer or consolidation where appropriate.

(b) The petition shall state the nature of the petitioner's interest, the facts showing that petitioner is a person aggrieved by the decision, and the grounds specified in s. 227.57 upon which petitioner contends that the decision should be reversed or modified. The petition may be amended, by leave of court, though the time for serving the same has expired. The petition shall be entitled in the name of the person serving it as petitioner and the name of the agency whose decision is sought to be reviewed as respondent, except that in petitions for review of decisions of the following agencies, the latter agency specified shall be the named respondent:

1. The tax appeals commission, the department of revenue.

2. The banking review board or the consumer credit review board, the commissioner of banking.

3. The credit union review board, the commissioner of credit unions.

4. The savings and loan review board, the commissioner of savings and loan, except if the petitioner is the commissioner of savings and loan, the prevailing parties before the savings and loan review board shall be the named respondents.

(c) Copies of the petition shall be served, personally or by certified mail, or, when service is timely admitted in writing, by first class mail, not later than 30 days after the institution of the proceeding, upon all parties who appeared before the agency in the proceeding in which the order sought to be reviewed was made.

(d) The agency (except in the case of the tax appeals commission and the banking review board, the consumer credit review board, the credit union review board, and the savings and loan review board) and all parties to the proceeding before it, shall have the right to participate in the proceedings for review. The court may permit other interested persons to intervene. Any person petitioning the court to intervene shall serve a copy of the petition on each party who appeared before the agency and any additional parties to the judicial review at least 5 days prior to the date set for hearing on the petition.

(2) Every person served with the petition for review as provided in this section and who desires to participate in the proceedings for review thereby instituted shall serve upon the petitioner, within 20 days after service of the petition upon such person, a notice of appearance clearly stating the person's position with reference to each material allegation in the petition and to the affirmance, vacation or modification of the order or decision under review. Such notice, other than by the named respondent, shall also be served on the named respondent and the attorney general, and shall be filed, together with proof of required service thereof, with the clerk of the reviewing court within 10 days after such service. Service of all subsequent papers or notices in such proceeding need be made only upon the petitioner and such other persons as have served and filed the notice as provided in this subsection or have been permitted to intervene in said proceeding, as parties thereto, by order of the reviewing court.